

COMMISSIONERS APPROVAL

GRANDSTAFF *cg*

ROKOSCH *HR*

THOMPSON *AT*

CHILCOTT *gc*

DRISCOLL *vd*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner Carlotta Grandstaff,
Commissioner Jim Rokosch, Commissioner Alan Thompson, Commissioner Greg
Chilcott and Commissioner Kathleen Driscoll

Date.....April 15, 2008

Minutes: Beth Perkins

► The Board met for public meeting for North Park Bonanza Lands AP minor
subdivision. Present were Planner Tristan Riddell, Representatives George Marshall and
John Horat, Civil Counsel Karen Mahar, Developer Jeff Reynolds and several citizens.

Commissioner Grandstaff called the meeting to order and requested any conflicts of
interest, hearing none. She then requested the Planning Staff Report be read.

Tristan presented the Staff Report as follows:

**NORTH PARK, BONANZA LANDS NO. 2, AP (REYNOLDS)
FIVE-LOT FIRST MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Tristan Riddell

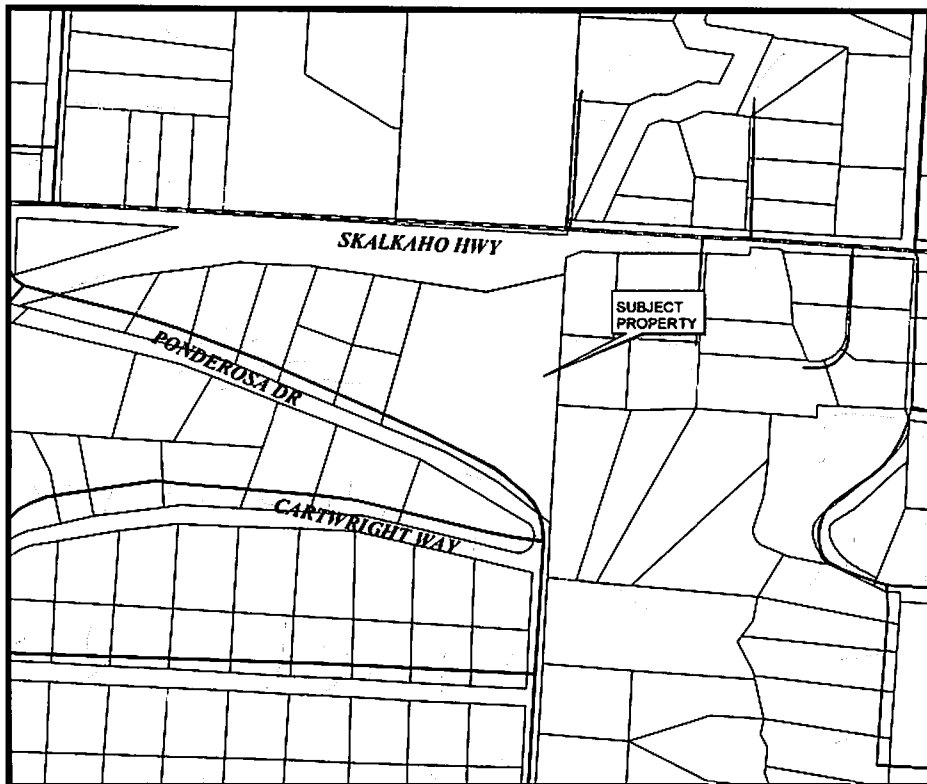
**REVIEWED/
APPROVED BY:** Renee Lemon

PUBLIC MEETINGS: BCC Public Meeting: 9:00
a.m. April 15, 2008
Deadline for BCC action (35 working days): April 22, 2008

SUBDIVIDER: Jeff Reynolds
PO Box 404
Hamilton, MT 59840

REPRESENTATIVE: Alcyon, LLC
PO Box 218
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located southeast of Hamilton off Skalkaho Highway. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION OF PROPERTY: A portion of the NE $\frac{1}{4}$ of Section 18, T5N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was determined complete on February 8, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are

Exhibits A-1 through A-7 of the staff report. This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated March 5, 2008. One public comment was received and is attached as Exhibit B.

**DEVELOPMENT
PATTERN:**

Subject property:	Vacant
North:	Low Density Residential/Agricultural
South:	Residential
East:	Residential
West:	Residential

INTRODUCTION

The North Park, Bonanza Lands No. 2, AP first minor subdivision is a five-lot subdivision of 10.01 acres located south of Hamilton. The proposed development is located in an area of residential use. All lots are proposed for residential use. The proposed development was originally platted as dedicated land to Ravalli County as a result of the Bonanza Lands No. 2 development. Ravalli County sold the lot to Jeff Reynolds in 2007.

Staff recommends approval of the variance request and conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
APRIL 15, 2008**

**NORTH PARK, BONANZA LANDS NO. 2, AP
FIVE-LOT FIRST MINOR SUBDIVISION**

RECOMMENDED MOTION

1. That the variance request from Section 5-4-4(d) of the RCSR, to relieve the subdivider from connecting the internal subdivision roadway to Ponderosa Drive, be **approved**, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.
2. That the North Park, Bonanza Lands No. 2, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. *(Staff Note: The BCC should make a decision on whether or not to accept the applicant's proposal of cash-in-lieu of parkland dedication as part of the motion.)*

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easements. Within this subdivision there is an irrigation easement and drainage easement, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a), RCSR, Prerequisites to Approval, and Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities*)

Notification of Road Maintenance Agreement. The internal subdivision road, Cochise Way, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for these roads was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)

Notification of "Very Limited" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils in question are included as exhibits to this document [*the subdivider shall include the reduced plat and exhibits as attachments*]. (*Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. Electric fencing is necessary to effectively prevent wildlife such as bears from entering a garden or fruit tree/shrub area, but only if the fence is properly constructed and regularly monitored and maintained to ensure proper use and function. Consult with the Montana Department of Fish, Wildlife and Parks on the proper techniques to develop and maintain an effective electric fence.
- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers or storage areas.)

- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be

composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)

- k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- a. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Public Health and Safety)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-8(b)(v), RCSR, Effects on Public Health & Safety)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Natural Environment)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences

over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. *(Section 3-2-8(b)(v), RCSR, Effects on the Natural Environment)*

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Ponderosa Drive frontage of this subdivision. All lots within this subdivision must use the approved approach off of Skalkaho Highway. Locations of the no-ingress/egress restrictions can be found on a reduced copy of the final plat. *[The subdivider shall provide a reduced copy of the plat showing the no-ingress/egress zones.]* This limitation of access may be lifted or amended only with the approval of the Montana Department of Transportation and the Board of Ravalli County Commissioners. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety and Variance)*

Maintenance of Fencing along Hedge Ditch. The owners of Lots 1 and 2 shall be responsible for maintaining the safety fencing located along the northern subdivision boundary. Each lot owner shall be responsible for maintaining the portion of the fence on their lot to meet the specifications in Section 5-6-2(b) of the Ravalli County Subdivision Regulations. *(Effects on Public Health & Safety)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Section 3-2-8(b)(v), RCSR, Effects on all six criteria)*

3. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdivider shall provide a letter from the Hamilton Rural Fire District stating that the subdivider has provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$500 per lot contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
7. The subdivider shall provide evidence that a 60-foot wide "public road and utility easement" has been filed through Tract A-1 of Certificate of Survey

#5783 prior to final plat approval. (*Section 3-2-8(a), Prerequisites to Approval and Section 3-2-8(b)(v), RCSR, Effects on Local Services*)

8. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. (*Section 3-2-8(a), RCSR, Prerequisites to Approval and Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
9. The final plat shall show a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision, as requested by the Montana Department of Transportation. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety and Variance*)
10. A stop sign and road name sign shall be installed at the intersection of Cochise Way and Skalkaho Highway prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety*)
11. The subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received an (amount)-per-lot contribution prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
12. The subdivider shall submit an (amount)-per-unit contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
13. The subdivider shall provide for a 10-foot wide irrigation easement along the eastern boundary of the subject property, as proposed on the preliminary plat. In addition, the subdivider shall also record a 5-foot wide irrigation easement along the western boundary of Tract A-1, Certificate of Survey #5783, as shown on the preliminary plat, prior to final plat approval. (*Section 3-2-8(a), RCSR, Prerequisites to Approval, and Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water Users*)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The

features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:

- a) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat. (*see also, Prerequisite to Approval A*)
 - b) The easement for Cochise Way shall be labeled as a 60-foot wide public road and utility easement on the final plat.
 - c) The final plat shall show a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision, as requested by the Montana Department of Transportation. (*Condition 9*)
 - d) The proposed irrigation easement shall be shown on the final plat, as shown on the preliminary plat. (*Condition 14*)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
 10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
 11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
 12. A Copy of the appraisal report, dated no less than six (6) months from the date of the final plat submittal, for calculating the cash-in-lieu or parkland dedication and a receipt from the County Treasurers Office for the payment of the cash-in-lieu dedication.
 13. Road and Driveway approach and encroachment permits from MDOT.

14. Evidence of a Ravalli County-approved road name petition(s) for each new road.
15. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
16. Road certification (Staff Note: Final approval from the Road Department shall meet this requirement.)
17. Utility availability certification(s) shall be submitted with the final plat submittal.
18. A road maintenance agreement, signed and notarized, shall be submitted with the final plat.
19. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of any ditch.
20. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
21. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
22. A copy of the letter sent to the Hamilton School District stating the subdivider has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
23. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2). The following improvements are proposed with this proposal:
 - The subdivider shall improve Cochise Way to meet County standards (addressed above).
 - A stop and road name sign shall be installed at the intersection of Cochise Way and Skalkaho Highway.
 - The subdivider shall install a fence along the northern property boundary in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utility easements are located along Skalkaho Highway. (Application)
2. The internal road system will be located within a proposed 60-foot wide public road and utility easement. A portion of the easement is located on Tract A-1 of Certificate of Survey #5783, which is also owned by the applicant. (Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Requirement 2)*
4. *The subdivider shall provide evidence that a 60-foot wide "public road and utility easement" has been filed through Tract A-1 of Certificate of Survey #5783 prior to final plat approval. (Condition 7)*
5. *The applicant is required to submit utility availability certification(s) with the final plat submittal. (Requirement 17)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed from U.S. Highway 93, Skalkaho Highway, and the proposed internal road. (Application)
2. U.S. Highway 93 and Skalkaho Highway are state highways that provide legal and physical access. (Application)
3. The applicant is proposing to construct the internal road, Cochise Way, to meet County standards. (Application)
4. The applicant is proposing a 60-foot wide private road and utility easement for Cochise Way. (Application)
5. A Road Maintenance Agreement outlines what parties are responsible for maintaining Cochise Way, and under what conditions. (Application)
6. *To ensure legal and physical access to the subdivision the following requirements shall be met:*

- *Prior to final plat approval, the subdivider shall submit a copy of the recorded 60-foot wide public road and utility easement for the entire length of Tract A-1, Certificate of Survey #5783. (Condition 7)*
- *The easement for Cochise Way shall be labeled as a 60-foot wide public road and utility easement on the final plat. (Requirement 2(b), Condition 8)*
- *Final approval from the Ravalli County Road and Bridge Department that Cochise Way was constructed to meet County standards shall be submitted with the final plat. This packet shall include final road plans and grading and storm water drainage plans, a road certification for Cochise Way, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 16)*
- *A road maintenance agreement, signed and notarized, shall be submitted with the final plat. (Requirement 18)*

Conclusion of Law

With the requirements of final plat approval, legal and physical access will be provided by U.S. Highway 93, Skalkaho Highway, and the internal road Cochise Way.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The subdivider is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Requirement 23):

- The subdivider shall install a fence along the northern property boundary in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations.
- Cochise Way shall be constructed to meet county standards
- A stop and road name sign shall be installed at the intersection of Cochise Way and Skalkaho Highway

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no water rights associated with the subject property.
(Application)

Conclusion of Law

This requirement does not apply to the Bonanza Lands No. 2, North Park proposal.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. There is an existing, buried irrigation line traversing from the Hedge Ditch through Lots 1 and 4 of the property. The applicant is proposing to relocate the irrigation ditch along the eastern boundary of the subdivision. (Preliminary Plat)
3. The subdivider is proposing a 10-foot wide irrigation easement along the eastern boundary of the proposal. In addition to the 10-foot easement, the subdivider, who also owns Tract A-1 of Certificate of Survey #5783, is proposing an additional 5 feet of easement along the western boundary of said lot. (Preliminary Plat)
4. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirements and conditions shall be met prior to final plat approval:*
 - *The proposed 10-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Condition 14 and Requirement 2)*
 - *The subdivider shall record a 5-foot wide irrigation easement along the western boundary of Tract A-1, Certificate of Survey #5783. (Condition 14)*

- *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
- *The applicant shall submit a notarized statement from each downstream water user specifically authorizing the relocation of the ditch. (Requirement 19)*

Conclusion of Law

With the requirements and conditions of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The parkland dedication requirement is 0.52 acres. (Application)
2. All lots within the subdivision are proposed for residential use. (Application)
3. The subdivider has proposed cash-in-lieu of parkland dedication. (Application)
4. In a letter dated December 1, 2007, Bob Cron of the Ravalli County Park Board indicated that the Park Board concurs with the subdivider's proposal to provide cash-in-lieu for parkland dedication. (Exhibit A-1)

Conclusion of Law

With the acceptance of a cash-in-lieu payment, the parkland requirement will be met.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR, with the exception of Section 5-4-4(d). Staff is recommending conditional approval of the variance request. (Subdivision File and Variance Report)
2. The road design has been approved by the Ravalli County Road and Bridge Department and meets the applicable standards in the RCSR. (Exhibit A-2)

3. This development plan proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the Ravalli County Subdivision Regulations. (Subdivision File)

Conclusions of Law

1. With conditional approval of the variance, the subdivision application meets all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Application)

Conclusions of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Findings of Fact

1. There were covenants filed with the original Bonanza Lands No. 2 subdivision. (Application)
2. The existing covenants do not regulate future subdivision or lot size. (Staff Determination)

Conclusion of Law

The proposal is in conformance with existing restrictive covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)

2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 10.4 acres will result in 5 lots that range in size from 2.00 acres to 2.34 acres. The property is located approximately 2.0 miles south of the city of Hamilton off U.S. Highway 93 and Skalkaho Highway. (Application)
2. The parcel was created as part of Bonanza Lands No. 2 and was donated to the County as parkland. The County later sold the parcel to the applicant. (Application)
3. There is no prime farmland or farmland of statewide importance on the property. (Remington Ridge Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
4. The property is located in an area of residential and agricultural uses.
5. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is scattered across the property. (Application)
6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. There are no water rights associated with the property. (Application)
2. The Hedge Ditch abuts the northern property boundary. (Preliminary Plat)
3. There is an existing, buried irrigation line traversing from the Hedge Ditch through Lots 1 and 4 of the property. The applicant is proposing to relocate the irrigation ditch along the eastern boundary of the subdivision. (Preliminary Plat)
4. The subdivider is proposing a 10-foot wide irrigation easement along the eastern boundary of the proposal. In addition to the 10-foot wide easement, the subdivider, who also owns Tract A-1 of Certificate of Survey #5783, is proposing an additional 5 feet of easement along the western boundary of said lot. (Preliminary Plat)
5. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
6. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The proposed 10-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Condition 14 and Final Plat Requirement 2)*
 - *The subdivider shall record a 5-foot wide irrigation easement along the western boundary of Tract A-1, Certificate of Survey #5783. (Condition 14)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
 - *The applicant shall submit a notarized statement from each downstream water user specifically authorizing the relocation of the ditch. (Requirement 19)*
 - *The subdivider shall install a fence along the northern property boundary in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations. (Requirement 23)*
 - *The covenants shall include a provision requiring the owners of Lots 1 and 2 to maintain the fencing along the Hedge Ditch. (Condition 2)*

Conclusion of Law

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the Hamilton Rural Fire District. (Application)

2. In a letter dated December 5, 2007, Lisa Wade of the Hamilton Rural Fire District stated that the HRFD does not oppose the proposal as all buildings are constructed to International Residential Building Code (IRBC) standards and the internal roadway is constructed to county standards without any variances. (Exhibit A-3)
3. The Hamilton Rural Fire District has adopted Fire Protection Standards, which address access, posting of addresses, and water supply requirements. The Fire District also recommends that houses within this subdivision be built to IRBC building standards. (Exhibit A-4)
4. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a recommendation from the Hamilton Rural Fire District stating that houses within this subdivision should be built to International Residential Building Code (IRBC) building standards. Further, the Hamilton Rural Fire District requests that any commercial buildings be constructed to meet state building code requirements. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
 - *Prior to final plat approval, the subdivider shall provide a letter from the Hamilton Rural Fire District stating that the subdivider have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdivider may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
 - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*

School District

5. With this subdivision, it is estimated that approximately 2.5 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000)
6. The subdivider has not proposed a voluntary contribution. (Application)

7. Notification letters were sent to the Hamilton School District requesting comments on November 11, 2007 and March 5, 2008, but no comments have been received from the School District. (Subdivision File)
8. The cost per pupil for one year in the Hamilton School District, excluding capital costs, is \$6,619. Taxes from new residents are not immediately available to the school districts. (Exhibit A-5)
9. *To mitigate impacts on the School District, the subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 12) (Staff Note: Staff recommends that the BCC negotiate an amount with the subdivider and include the appropriate finding(s) supporting the amount in their decision.)*

Water and Wastewater Districts

10. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

Law Enforcement and County Emergency Services (Sheriff, E-911, DES)

11. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)
12. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on November 11, 2007 and March 5, 2008, but no comments have been received from the Sheriff's Office. (Subdivision File)
13. The average number of people per household in Ravalli County is 2.5. (Census 2000)
14. The subdivider has yet to propose a contribution to mitigate the impacts of the estimated addition of 12.5 people on Public Safety Services. (Application)
15. *To mitigate impacts on Ravalli County Public Safety Services, Staff recommends the subdivider negotiate a contribution with the BCC, to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 13)*

Emergency Services

16. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly was contacted but no comments have been received to date. (Subdivision File)
17. *To mitigate impacts on emergency services, the subdivider shall meet the following conditions and requirement:*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
 - *A road name sign shall be installed for Cochise Way. (Condition 10)*

Solid Waste Services

18. Bitterroot Disposal provides solid waste service to this site. (Application)

19. Notification letters were sent to Bitterroot Disposal requesting comments on November 11, 2007 and March 5, 2008, but no comments have been received. (Subdivision File)

Utilities

20. The proposed subdivision will be served by Northwestern Energy, Ravalli Electric Coop, and Qwest Communications. (Application)
21. Notification letters were sent to both utility companies requesting comments on November 11, 2007 and March 5, 2008, but no comments have been received to date. (Subdivision File)
22. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Requirement 2)*
 - *The subdivider shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Requirement 17)*
 - *The subdivider shall provide evidence that a 60-foot wide "public road and utility easement" has been filed through Tract A-1 of Certificate of Survey #5783 prior to final plat approval. (Condition 7)*

Roads

23. There are five proposed single family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 32 additional vehicular trips per day, assuming 8 trips per day per single-family dwelling. (Application)
24. Skalkaho Highway provides access to the subdivision from US Highway 93. Both roads are state operated highways. (Application)
25. The applicant is proposing to construct the internal road, Cochise Way, to meet County standards. (Application)
26. The applicant is proposing a 60-foot wide private road and utility easement for Cochise Way. (Application)
27. A Road Maintenance Agreement outlines what parties are responsible for maintaining the roads within the subdivision, and under what conditions. (Application)
28. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *The subdivider shall provide evidence that a 60-foot wide "public road and utility easement" has been filed through Tract A-1 of Certificate of Survey #5783 prior to final plat approval. (Condition 7)*
 - *The easement for Cochise Way shall be labeled as a 60-foot wide public road and utility easement on the final plat. (Requirement 2(b), Condition 8)*
 - *Final approval from the Ravalli County Road and Bridge Department that Cochise Way was constructed to meet County standards shall be submitted with the final plat. This packet shall include final road plans and grading and storm water drainage plan, a road certification for Cochise Way, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirements 15 and 16)*

- *A notification of the road maintenance agreement for Cochise Way shall be included in the notifications document filed with the final plat. (Condition 1)*
- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*
- *The stop and road name sign shall be installed prior to final plat approval. (Requirement 23 and Condition 10)*
- *The final plat shall show a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision and a notification of the no-ingress/egress zone shall be included in the notifications document. (Requirement 2 and Conditions 2 and 9)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision would add five new homes to an area of existing low density development, south of the City of Hamilton. (2004 Aerial Photograph and Site Visit on 3/5/08)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground Water Quality

4. The subdivider is proposing individual wells and wastewater facilities. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
5. *The subdivider is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 9)*

Surface Water Features

6. There are no streams, rivers, riparian areas or wetlands on or adjacent to the property. However, the Hedge Ditch abuts the northern property boundary.
(Application, Site Visit, GIS data)
7. *The subdivider shall install a fence along the northern property boundary in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations. (Requirement 23)*

Light Pollution

8. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution.
(International Dark-Sky Association)
9. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

10. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is scattered on the property.
11. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board.
12. The Montana Natural Heritage Program found that the palish sedge and the state champion tree were found within the same sections as the subject property
(Application). The subdivider submitted and was granted a waiver from completing a Sensitive Species Report (Exhibit A-6)
13. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

14. There are no known sites of historical significance on the property.
(Application)
15. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

8. In a letter received August 28, 2007, FWP stated that this property has a high likelihood of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-7)
9. The property is not located within big-game winter range. (FWP)
10. According to the Montana Natural Heritage Program, the Townsend's Big-Eared Bat, Gray Wolf, and Marbled Jumping Slug were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property for all species. (Exhibit A-6)
11. *To mitigate impacts on wildlife, the following conditions shall be met:*
 - *The covenants shall include a living with wildlife section. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Skalkaho Highway and Cochise Way from US Highway 93. (Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The subdivider is proposing individual wells and wastewater facilities. The subdividers submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
6. *The subdivider is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 9)*

Natural and Man-Made Hazards

1. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
2. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
3. *To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*
4. The preliminary plat and soils map indicate that the subdivision may have soils rated as "Very Limited" for road and building construction. (Application)
5. *To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for "Very Limited" soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as "Very Limited" for roads and building construction and descriptions of the soils in question shall be attached to the notifications document as an exhibit. (Condition 1)*
6. Unfenced irrigation supply ditches pose a significant and tangible threat to young children when located within a residential setting. The Hedge Ditch is considered an irrigation supply ditch, as opposed to a lateral ditch or smaller ditch, in which case the fencing requirement of Section 5-6-2 applies.
7. *To mitigate impacts to Public Health & Safety, the covenants shall include a provision requiring the maintenance of the fencing along the Hedge Ditch. (Condition 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

VARIANCE REQUEST

The subdivider is requesting a variance from Section 5-4-4(d) of the RCSR, to relieve the subdivider from connecting the internal subdivision roadway to Ponderosa Drive.

Variance Analysis

Section 7-3-5(a), RCSR, outlines two sets of criteria to be used in analyzing a variance request.

Prerequisite Variance Criteria

In order for a variance to be considered for approval, the BCC must first determine that the variance request meets these stipulations:

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

Variance Review Criteria

If and only if a positive determination is made on both of the prerequisite criteria, the BCC may then consider the variance for approval, based on the five variance review criteria:

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
- E. The variance will not cause a substantial increase in public costs.

Both sets of criteria were reviewed simultaneously. Findings for Prerequisite Criterion #1 are based on an analysis of Variance Review Criteria B and C. Findings for Prerequisite Criterion #2 are based on an analysis of Variance Review Criteria A, D, and E.

Five Variance Review Criteria

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

Findings of Fact:

- 1. Ponderosa Drive is a county-maintained, paved road providing access to existing lots within Bonanza Lands No.2. (Application)
- 2. The subdivider is required to connect new roadways to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow. (Section 5-4-4(d) RCSR)
- 3. This subdivision will add an estimated 40 trips per day to Skalkaho Highway.
- 4. The subdivider is proposing an access off Skalkaho Highway through an adjacent parcel that is also owned by the subdivider because the applicant wants to avoid road construction on slopes from 10% to 20% in the southern portion of the property. This would result in fill depths in excess of 20 feet. (Variance Application)
- 5. The Montana Department of Transportation (MDT) has stated if a no ingress/egress zone is placed along the Ponderosa Drive frontage of the subdivision, MDT will issue an approach permit off Skalkaho Highway. (Application)

6. *To mitigate impacts on public health and safety, the no-ingress/egress zone, as proposed on the preliminary plat, shall be shown on the final plat. A restriction shall be included in the covenants. (Conditions 2 and 9, and Requirement 2)*

Conclusion of Law:

The granting of the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.

- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.**

Findings of Fact:

1. The applicants are proposing to access the subdivision off Skalkaho Highway. (Application)
2. The applicants are required to connect to adjoining neighborhoods via Ponderosa Drive. (Section 5-4-4(d))
3. There are physical conditions that make it difficult for the applicant to access off Ponderosa Drive. (Variance Application)
4. If there is a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision, MDT will issue an approach permit off Skalkaho Highway. (Application)

Conclusion of Law:

The fact that MDT will only issue a permit off Skalkaho Highway if there is no access via Ponderosa Drive, which is in conflict with Section 5-4-4(d) of the Ravalli County Subdivision Regulations, is a unique condition.

- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).**

Finding of Fact:

Road construction through the southern portion of the property to access Ponderosa Drive would require fill depths in excess of 20 feet because of the 10% to 20% grades. (Variance Application & Application)

Conclusion of Law:

Topography makes it difficult for the applicant to meet this regulation, but it does not prevent the applicant from meeting the requirement through engineering.

- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.**

Findings of Fact:

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.

2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined in italics below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

- The applicant is proposing to construct an internal subdivision road to meet County standards. The road will access off Skalkaho Highway. (*Exhibit A-2*)
- If there is a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision, MDT will issue an approach permit off Skalkaho Highway. (Application)
- *To mitigate impacts on public health and safety, the no-ingress/egress zone, as proposed on the preliminary plat, shall be shown on the final plat. A restriction shall be included in the covenants. (Conditions 2 and 9)*

Conclusions of Law:

1. The subdivision proposal complies with applicable zoning regulation.
2. The variance will not vary from the provisions in the Growth Policy.

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

1. If there is a no-ingress/egress zone along the Ponderosa Drive frontage of the subdivision, MDT will issue an approach permit off Skalkaho Highway. (Application)
2. *To mitigate impacts on public health and safety, the no-ingress/egress zone, as proposed on the preliminary plat, shall be shown on the final plat. A restriction shall be included in the covenants. (Conditions 2 and 9)*

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs.

Prerequisite Variance Criteria

A. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion B is that MDT's statement that they will provide an approach permit off Skalkaho Highway if access via Ponderosa Drive is restricted, which conflicts with the Ravalli County Subdivision Regulations, is a unique condition.
2. The conclusion for Criterion C is that while the topography makes compliance with the regulations difficult, it is not impossible.

Conclusion of Law:

Strict compliance with these regulations will result in undue hardship.

B. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.
2. The conclusions for Criterion D are that the variance request complies with applicable zoning regulations and does not vary from the provisions in the Growth Policy.
3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

C. Overall Conclusion on Hardship and Public Welfare

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

Commissioner Grandstaff opened public comment.

Commissioner Driscoll questioned the bridge on Ponderosa Drive. She expressed her concerns with the steepness of Skalkaho Highway as an access point.

John explained the thinking behind the selection of the access point. He stated it would have taken 17 feet of fill with serious concerns of settlements for an access point off Ponderosa Drive. John discussed getting a permit from with the Montana Department of Transportation and that the new permitting process required a full environmental study because the presence of sensitive species. MDT is willing to grant the approach if the County approves the variance. It would be a steep pitch at 20% slope to access off Ponderosa Drive therefore, the road design was for Skalkaho Highway.

David Larraway stated he lives adjacent to the property in the southwest corner. He bought his property with the belief the adjacent parcel would stay a park. He agrees with the approach on Skalkaho Highway and not Ponderosa Drive. He pointed out his property lines on the map to the Board. He explained he has discussed a property line adjustment with Jeff in the future. David explained it is hard enough as it is to pull out of his driveway onto Ponderosa Drive and he can't imagine adding more traffic.

Jeff stated he has discussed other options with David to mitigate the problems he will have with his property line. Commissioner Grandstaff questioned the sale of dedicated County park land and notification of the area landowners. Commissioner Thompson replied the Park Board sold the land in order to access funds for a county sports complex.

The Park Board put the land up for sale and it was published in the newspaper. David replied it was in the paper but geared towards developers. The landowners were not notified. Commissioner Grandstaff stated this is something the Park Board needs to consider for future sales. Commissioner Thompson replied this is a case of law requirements versus what you should do. This is unfortunate but it was legal. Commissioner Grandstaff stated people purchased their land on both sides with the belief it would stay park land. Commissioner Thompson replied people utilize it but do not realize it is county property. Commissioner Rokosch stated he believes this is a discussion for the Park Board for policy development. It would be appropriate to contact all the property owners within a subdivision that the County was considering selling parkland in. Commissioner Driscoll expressed her concern with notification of the landowners. Commissioner Chilcott explained if the Park Board came in and turned it into a skate park it would not have made the neighbors happy. We have those concerns that would be raised no matter what you do to the land. We do need to develop a policy when selling park land. People should be informed buyers. Commissioner Rokosch stated he agrees with Commissioner Chilcott, a policy is needed with the Park Board.

Commissioner Rokosch stated he agrees with the Staff Report as positive benefits in granting this variance. **Commissioner Rokosch made a motion to approve the variance. Commissioner Chilcott seconded the motion.** Commissioner Grandstaff stated she believes this is a bad area for a subdivision. It does conform to the criteria. **Commissioner Grandstaff, Commissioner Rokosch, Commissioner Thompson and Commissioner Chilcott voted 'aye'. Commissioner Driscoll voted 'nay'. Motion carried.**

George stated in terms of the mitigation for public services are included on the last page. \$500 per lot to Fire District, \$500 for School District and \$500 per lot to Public Safety (Sheriff, 9-1-1). He realizes those standards have changed and they are open to discussion. They believe the subdivision is consistent to use in the area. There are some engineering challenges such as the road layout. The property and the landscape issue with the park land should not be held against the developer. There is an existing irrigation line that hooks into the water valve underneath Ponderosa Drive. Commissioner Rokosch questioned hooking into the existing valve location. George replied they would intersect from Lots 4&5. Commissioner Driscoll questioned the well situation. George replied they are proposing individual wells.

Criterion 1: Effects on Agriculture: Commissioner Grandstaff requested offered mitigation to the Open Lands Program due to the taking of land out of agricultural practice permanently. The normal offer has been \$500 per lot. Commissioner Chilcott pointed out one small area could be farm land if irrigated and the remaining is severe soils. George stated if there is no potential agricultural land, why offer mitigation? Commissioner Grandstaff stated every piece of land is considered potential agricultural land. It was the Board consensus this land has no potential agricultural use. **All voted sufficiently mitigated.**

Criterion 2: Effects on Agricultural Water User Facilities: Commissioner Rokosch asked if Daly Ditches had been contacted with the proximity of construction. John replied it is pretty rare Daly Ditches would comment. He does not believe discussing the fence line would be a problem with Daly Ditches. Commissioner Rokosch stated the Board has heard easements being insufficient with the ditches. Commissioner Grandstaff asked about the proposed 10 foot wide irrigation with additional five feet to the western boundary. Tristan replied it is on Tract A1 of an adjacent property owned by Mr. Reynolds. George pointed out the water lines on the map to Commissioner Grandstaff for a total of 15 feet on just Mr. Reynolds' properties. John stated the covenants would have 50 foot setbacks. Jeff stated his property line is approximately 40 feet back from the ditch. Commissioner Grandstaff questioned the irrigation. Tristan replied there are no water rights with this property. Board discussion followed regarding water rights. Tristan suggested adding the developer is working with Daly Ditches regarding the location of the safety fencing as a Condition. **Commissioner Rokosch requested adding "irrigation infrastructure" to the language and have Daly Ditches notified for comment as a condition. Specific language as recommended by Civil Counsel is as follows: "A notarized statement from each downstream water user, specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch" be changed to read "relocation of any irrigation infrastructure".**

All voted sufficiently mitigated.

Criterion 3: Effects on Local Services: George stated offered mitigation is \$500 per new lot to the School District payable upon final plat. Commissioner Rokosch pointed out the cost per student from Hamilton School District and what current tax payers are paying. He stated it is in the ball park of \$1,200 and he cannot justify going below that amount in mitigation. George stated \$1,200 per lot is acceptable. Commissioner Rokosch stated the Board is willing to split it between final plat and first conveyance. **George agreed to split the payment leaving mitigation at \$1,200 per new lot payable half upon final plat and the remainder upon final conveyance with CPI.**

Commissioner Grandstaff requested an offer of \$500 per new lot to Public Safety. Jeff requested the remaining mitigation. Commissioner Grandstaff replied the others are Public County Services and Fire District. **Jeff replied the offered mitigation is \$500 per new lot to Fire District upon final plat, \$500 per new lot to Public Safety payable half upon final plat and the remainder upon final conveyance with CPI and \$200 per new lot for Public County Services payable half upon final plat and the remainder upon final conveyance with CPI. Commissioner Grandstaff, Commissioner Rokosch, Commissioner Thompson, Commissioner Chilcott voted sufficiently mitigated. Commissioner Driscoll voted non-sufficient.**

Commissioner Driscoll questioned the road development and the slope grade. John replied the entrance is flat and then it goes to 2% and at the turn is 8% which is 2% less than the maximum allowable grade based on County regulations. Commissioner Driscoll

expressed her concern with the road getting wet and icy at such a slope. John replied that the roadway coming off of Skalkaho is a lot safer than coming off of Ponderosa Drive.

Criterion 4: Effects on Natural Environment: All voted sufficiently mitigated.

Criterion 5: Effects on Wildlife & Wildlife Habitat: All voted sufficiently mitigated.

Criterion 6: Effects on Public Health & Safety: Commissioner Grandstaff, Commissioner Rokosch, Commissioner Thompson, Commissioner Chilcott voted sufficiently mitigated. Commissioner Driscoll voted non-sufficient.

Commissioner Chilcott made a motion to approve North Park Bonanza Lands No. 2 AP Minor Subdivision based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report and as mitigated here today (addition of mitigation fees and Condition 14 to reflect agreement between Daly Ditches and the placement of safety fencing along the Hedge Ditch). Commissioner Thompson seconded the motion. Commissioner Grandstaff, Commissioner Rokosch, Commissioner Thompson and Commissioner Chilcott voted 'aye'. Commissioner Driscoll voted 'nay' based on the road.

► The Board met to approve a grant application for the Western Regional Juvenile Detention with Cal Robinson.

Commissioners Grandstaff and Driscoll were not present for this meeting.

Commissioner Rokosch called the meeting to order.

Cal gave a brief overview of the grant application and stated it is a repeated grant from last year. Commissioner Chilcott made a motion to have the Chairperson sign the grant application. Commissioner Thompson seconded the motion. All voted 'aye'.